

REMARKS

Claims 15-23 are currently pending and stand rejected. Claims 16, 17 and 23 are cancelled, claims 15, 19-20 and 22 are amended and claim 24 is added herein. Support for new claim 24 can be found, for example, at page 4, line 29 through page 5, line 2. Support for the amendments to claim 15 can be found, for example, at page 5, lines 3-6; and in the Examples section of the present application (pages 6-9). Claims 19-20 and 22 are amended for matters related to form. No new matter is added.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 15-23 stand rejected under 35 U.S.C. § 112, first paragraph as purportedly not supported by an adequate written description. The Office has specifically indicated that the limitation to the range of "0.2% to 2%" presented in claim 15 is not supported in the specification as filed. Moreover, while noting the Applicant's indication of support for claim 15, the Office has pointed out that the Applicant's arguments are not commensurate in scope with the claimed invention. Where the Applicant's arguments refer to the phospholipid concentration as it relates to the "formula," the claims refer to the phospholipid concentration as it relates to the "total liposome composition." The Applicants thank the Office for pointing this out and herein incorporate claim limitations in conformance with their previous assertions on this point. Nevertheless, as the present claim amendments alter the phospholipid concentration from that set forth in previous claim 15, this rejection is rendered moot. The claimed range finds full support in the specification as filed. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 15-23 stand rejected under 35 U.S.C. § 112, second paragraph as purportedly indefinite. In light of the present amendments to the claims, this rejection is rendered moot. Withdrawal is respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 15-23 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Mehansho et al., U.S. Patent No. 5,707,670 (*Mehansho*). The Office has reiterated the basis for rejections under Section 112 in the body of this rejection. Moreover, the Office has indicated that one of the

intended uses of the claimed preparations does differentiate the claimed preparations from *Mehansho* merely because of their intended use. In addition, the Office has provided that:

“[t]he phospholipid concentration is addressed at columns 6-7 of the reference, where it is stated that the edible carrier may be a liposome, and may serve to carry a divalent mineral salt, where ‘the ratio of divalent mineral salt to edible carrier can vary widely, but is typically in the range of from about 1:1 to about 1:500.’”

Paper No. 21, page 5. The Office is apparently referencing Col. 6, lines 1-3 for the point about a “liposome”; this section provides that: “[a]nother important component of the nutritional iron compositions of the present invention is an edible carrier. This edible carrier comprises an emulsifier capable of forming a bilayer structure, i.e., an emulsifier that can form a vesicle or liposome.” Respectfully, at no point in the *Mehansho* disclosure is there an indication that liposomes are created or present in any of its mixtures. *Mehansho* merely discusses the use of a material in its mixtures that may be “capable of” forming a liposome. As one of skill in the art would appreciate, liposomes are generally formed only under specific conditions.

More importantly, as acknowledged by the Office, *Mehansho*'s ratio of divalent mineral salt to edible carrier comprises about 50% to 0.2% divalent mineral salt (or 50% to 99.8% edible carrier). The present claims clearly fall outside of this range. Accordingly, withdrawal of this rejection is respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit**

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Account No. 03-1952 referencing docket no. (270142000300). However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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